

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Enhanced Communications	:	
Network, Inc. ("ECN") and Single	:	
Billing Services, Inc.	:	
	:	01-0657
Joint Petition for Approval to	:	
Acquire Assets and Request for	:	
Expedited Approval.	:	

ORDER

By the Commission:

On October 22, 2001, Enhanced Communications Network, Inc. ("ECN") and Single Billing Services, Inc. ("SBS") (collectively "Petitioners") filed with the Illinois Commerce Commission ("Commission") a joint petition requesting that the Commission issue an order approving ECN's acquisition of a certain portion of the subscriber base of SBS and to grant such relief on an expedited basis. On December 3, 2001, Petitioners filed a supplement to their joint petition. No hearing was held in this matter. Nor were any petitions to intervene received.

The joint petition indicates that ECN is a Delaware corporation with its principal offices located in West Covina, California. The joint petition also states that ECN holds authorization under Section 214 of the federal Communications Act of 1934, 47 U.S.C. 151 et seq., as amended, to provide domestic interstate and international telecommunications service. In addition, the joint petition indicates that ECN is authorized to provide intrastate interexchange service in 38 states, including Illinois. A review of Commission records reveals that ECN received its Certificate of Service Authority from the Commission on November 18, 1998 in Docket No. 98-0671. The certificate authorized ECN to provide resold interexchange telecommunications service within Illinois. ECN's tariffs on file with the Commission indicate that the services which ECN provides are provided as competitive services.

SBS is also a Delaware corporation, according to the joint petition. The principal offices of SBS are located in El Monte, California. The joint petition states that SBS is authorized under the federal Communications Act of 1934, as amended, to provide domestic interstate and international telecommunications service and is also authorized to provide intrastate interexchange service in 44 states, including Illinois. Commission records indicate that SBS received its Certificate of Service Authority in Docket No. 99-0383 on December 15, 1999. The certificate authorizes SBS to provide interexchange telecommunications service within Illinois. Furthermore, SBS' tariff on file with the Commission indicates that the services offered by SBS are classified as competitive.

Generally, the type of transaction described in the petition is normally considered under Section 7-102 of the Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq. Article XIII of the Act, which governs telecommunications matters in Illinois, however, limits the Commission's jurisdiction in this situation. Section 13-101 states, in part, "Except to the extent modified or supplemented by the specific provisions of this Article, Articles I through V, Sections 8-301, 8-505, 9-221, 9-222, 9-222.1, 9-222.2, 9-250, and 9-252.1 and Articles X and XI of this Act are fully and equally applicable to competitive telecommunications rates and services, and the regulation thereof." Thus, Article VII, including Section 7-102, is not applicable to competitive telecommunications matters. From the joint petition and Commission records, it is apparent that ECN and SBS only provide competitive services. Therefore, as providers of competitive telecommunications service, ECN and SBS do not need the Commission's approval of the acquisition described in the joint petition. Furthermore, since the Certificates of Service Authority issued to ECN and SBS by the Commission authorize the carriers to provide the same kind of service, there is no need for ECN to seek additional authority from the Commission to provide those services offered by SBS.

The only remaining issue is this proceeding concerns Section 13-406 of the Act, which requires telecommunications carriers offering or providing competitive telecommunications service to give the Commission and affected customers 30 days written notice before discontinuing or abandoning such service. ECN and SBS attached to their joint petition a copy of the notice which they will send to customers informing them of the transfer upon approval of the transaction. The notice states that ECN has no plans to change the rates, terms, and conditions of service currently provided to SBS' customers. The notice indicates further that ECN will provide 30 days written notice prior to any changes to rates, terms, and conditions.

The Commission finds the notice contained in Exhibit B to the joint petition sufficient and will consider Section 13-406 satisfied on the condition that the notice is filed with the Chief Clerk of the Commission at least 30 days prior to the transaction. The Commission, having reviewed the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the recitals of fact and the conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (2) pursuant to Section 13-101 of the Act, as providers of competitive telecommunications service only, Petitioners do not need the Commission's approval of the transaction described in the joint petition; and
- (3) SBS should notify the Commission and affected customers of its transaction with ECN as required by Section 13-406 of the Act.

IT IS THEREFORE ORDERED that the approval of the Illinois Commerce Commission of the asset purchase agreement between Enhanced Communications Network, Inc. and Single Billing Services, Inc. is not necessary.

IT IS FURTHER ORDERED that Single Billing Services, Inc. shall comply with Section 13-406 of the Act.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 11th day of December, 2001.

Chairman